UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,421	11/12/2003	Wade Carter	8130	6799

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EXAMINER
TRAN, NGHI V

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *20 March 2009*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-18* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-18* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All b) ☐ Some * c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This office action is in response to the amendment filed on March 30, 2009.

Claims 1 and 13 have been amended. Claims 19-25 have been canceled. No claims

have been added. Therefore, claims 1-18 are presented for further examination.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claims 13-18 are rejected under 35 U.S.C. 101 because of the following reasons:

4.   Claim 13 is directly and/or indirectly to a computer program, computer

application, and/or software per se because the applicant wrote, "a system for

configuring ... comprising: means for setting each ...; means for saving ...; means for

loading ...; and means for setting software ..." (emphasis added).

5.   Claims 14-18 are also rejected under 35 U.S.C. 101 because claim 14-18 are

directly depend on its independent claim 13.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claim 1-4 and 6-18 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Synnestvedt et al., United States Patent Number 6,598,057 (hereinafter

Synnestvedt), in view of Bahlmann, United States Patent Number 6,195,689

(hereinafter Bahlmann).

8.   With respect to claims 1, 13, and 18, Synnestvedt teaches a method for

configuring a first network device [= cable modem **102**] in a communication network [=

Internet **108**] [see abstract], comprising:

- selecting one or more subsets of a plurality of standardized network

  equipment configuration parameters [= selects parameters based on policies,

  step 308 of fig.3] by setting a variable to a certain value [= generate

  configuration file, step 310 of fig.3] corresponding to the subset [fig.3 and

  col.4, ll.9 through col.5, ll.32];

- saving the values [= resulting configuration can be generated according to the

  DOCSIS configuration file standard, see abstract] corresponding to the

  selected subsets to a database entry [= a local configuration database, col.6,

  ll.61-62] on a server [= the configuration policy data being optionally cached

on the TFTP server, see abstract] with a user interface [= configuration file

being viewable through a user interface, see abstract and col.7, ll.5-40];

▪ loading the configuration parameters from the server to the first network

device [= sending binary configuration file to the cable modem in step 316 of

fig.3 and col.5, ll.9-10]; and

▪ setting software switches within the first network device based on the

configuration file [= software upgrades as well as providing the new service of

dynamically generating DOCSIS compliant configuration files to cable

modem, col.3, ll.40-53].

However, Synnestvedt does not explicitly show representing each one or more

subset by a unique values and creating a configuration file that govern switches

executed by the netword device to switch on and/or off subset of standardized network

equipment configuration parameters according to unique values representing the subset

but not comprising the multiple configuration parameters of the subsets themselves.

In a related art, Bahlmann discloses representing each one or more subset by a

unique values and creating a configuration file [= configuration file **202**] that govern

switches executed by the network device to switch on and/or off subset of standardized

network equipment configuration parameters according to unique values representing

the subset but not comprising the multiple configuration parameters of the subsets

themselves [= configuration file 202 are provided in table 5 through table 12, see col.19,

ll.60 through col.20, ll.13, including on/off values in table 5 and table 8].

Therefore, it would have been obvious to one of ordinary skill in the art at the
time of the invention was made to modify Synnestvedt in view of Bahlmann by creating
a configuration file that govern switches executed by the network device to switch on
and/or off subset of standardized network equipment configuration parameters
according to unique values representing the subset but not comprising the multiple
configuration parameters of the subsets themselves because this feature allows
personnel to search for devices on the network [Bahlmann, col.2, ll.13-14]. It is for this
reason that one of ordinary skill in the art at the time of the invention would have been
motivated in order to contain embedded utilities that allow personnel to communicate
with the devices, ask them for current parameters, send them new parameters, execute
remote procedure calls, and even download software upgrades [Bahlmann, col.2, ll.18-
21].

9.   With respect to claims 2 and 14, Synnestvedt further teaches wherein the subset
or subsets are selected with a user interface [= configuration file being viewable through
a user interface, see abstract].

10.   With respect to claim 3, Synnestvedt further teaches wherein the user interface is
a computing device [= computer **100**].

11.   With respect to claims 4 and 15, Synnestvedt further teaches wherein the
computing device is a personal computer [= computer **100**].

12.   With respect to claims 6 and 16, Synnestvedt further teaches wherein the server

is a trivial file transfer protocol server [= TFTP server **124**].

13.   With respect to claim 7, Synnestvedt further teaches wherein the first network

device is an embedded MTA [= EMTA within cable modem **102**].

14.   With respect to claims 8 and 17, Synnestvedt further teaches wherein the

communication features facilitate communication between the first network device [=

cable modem **102**] and a second network device [= cable headend **118** including cable

modem termination service **104**] [fig.1].

15.   With respect to claim 9, Synnestvedt further teaches wherein the second network

device is a cable modem termination system [=cable headend **118** including cable

modem termination service **104**].

16.   With respect to claim 10, Synnestvedt further teaches wherein the second

network device is a PacketCable provisioning server [= CMTS modem provision object,

col.9, ll.10-62].

17.   With respect to claim 11, Synnestvedt further teaches wherein the second

network device is a media gateway [= CMTS may includes a media gateway].

18.   With respect to claim 12, Synnestvedt further teaches wherein the second

network device is a PacketCable call management server [= CMTS, col.2, ll.17-18].

19.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Synnestvedt in view of Bahlmann.

20.   With respect to claim 5, Synnestvedtt does not explicitly show that the computing

device is a personal digital assistant. However, it would have been obvious to one of

ordinary skill in the art at the time of the invention was made to modify Synnestvedtt by

implementing the computing device as a personal digital assistant because this feature

increases flexibility for users.

Response to Arguments

21.   Applicant's arguments with respect to claims 1-25 have been considered but are

moot in view of the new ground(s) of rejection.

Conclusion

22.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Nghi V. Tran whose telephone number is (571) 272-

4067. The examiner can normally be reached on Monday-Thursday (9:30-8:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2451